

Ordinance 01-046-2017

AN ORDINANCE TO AMEND CHAPTER ONE OF THE MOBILE CITY CODE, TO ALLOW CERTAIN CRIMINAL OFFENSES TO BE CHARGED BY ISSUANCE OF AN ALABAMA UNIFORM NONTRAFFIC CITATION AND COMPLAINT (UNTCC) NOT REQUIRING CUSTODIAL ARREST AND A COURT APPEARANCE IF UNCONTESTED

WHEREAS, the Mobile Police Department, handles many varied offenses when enforcing the Alabama Criminal code and the City of Mobile Municipal Code; and

WHEREAS, some of those offenses are relatively minor yet still require defendants to submit to custodial arrest and bonding requirements just as they would if committing far more serious offenses; and

WHEREAS, processing defendants under custodial arrest charged with minor offenses (meaning those offenses not involving violence, weapons, fighting words, or a danger to others), constitutes a disproportionate burden on City resources, relative to gravity of the minor offenses.

SECTION ONE: That CHAPTER I, ARTICLE II, DIVISION 2, of Mobile City Code, is hereby amended to read as follows:

Sec. 1-32. - Schedule of fines.

Section 1-32 is amended as follows:

A. Amend the first paragraph.

1. The first paragraph currently provides:

The following schedule of fines, which includes court costs, is hereby established by the city pursuant to the law of the state (Code of Ala., § 11-45-9.1 and Rule 20(c) of the Alabama Rules of Judicial Administration). If a defendant elects to plead guilty before a magistrate to a first time violation of any of the listed municipal laws, the fine, which includes court costs, established in the schedule of fines shall apply in uncontested municipal court cases. However, a defendant in lieu of appearing before a magistrate may sign a guilty plea and waiver of trial provisions on the municipal offense ticket and deliver the amount of the fine and costs to the clerk of the municipal court, or merely mail the correct amount pursuant to this section to the clerk of the municipal court, P.O. Box 2446, Mobile, Alabama 36601.

2. Delete the first paragraph and replace it with the following:

The following schedule of fines is hereby established by the City pursuant to the law of the State (Code of Ala., § 11-45-9.1 and Rule 20(c) of the Alabama Rules of Judicial Administration). If a defendant elects to plead guilty before a magistrate to a first time violation of any of the listed nontraffic misdemeanors, state law violations or municipal ordinance violations is listed in the schedule below, the fine, plus court costs, shall apply in an uncontested municipal court case. A defendant in lieu of appearing before a magistrate may sign a guilty plea and waiver of trial provisions on a municipal offense ticket or uniform nontraffic citation and complaint ("UNTCC") and deliver the amount of the fine and costs to the clerk of the municipal court, or mail the correct amount pursuant to this section to the clerk of the municipal court, P.O. Box 2446, Mobile, Alabama 36652.

B. Amend the Schedule of Fines

The Schedule of Fines at Section 1-32 of the City Code, is amended to add a new Section (4), Violations or Misdemeanors, as follows:

(4) Violations or Misdemeanors:

Number (City Code Section)	Violation or Misdemeanor	Fine	Court Cost	Total (Fine and Court Cost)
39-1	Criminal trespass 2 nd	\$100	As applicable	\$100 plus Court Cost
39-1	Criminal trespass 3d	\$100	As applicable	\$100 plus Court Cost
39-1	Disorderly conduct	\$100	As applicable	\$100 plus Court Cost
39-54	Failure to obey	\$100	As applicable	\$100 plus Court Cost
39-1	Harassment or harassing Communications	\$100	As applicable	\$100 plus Court Cost
39-1	Loitering for drug purposes	\$100	As applicable	\$100 plus Court Cost
30-13	Improper container in Lower Dauphin Entertainment District	\$100	As applicable	\$100 plus Court Cost
39-1	Violations or misdemeanors that: (1) do not involve the use or consumption of alcoholic beverages or any controlled substance; (2) are not connected with violent acts; or (3) do not require restitution to the victims of crimes	\$100	As applicable	\$100 plus Court Cost

SECTION TWO: Add a new Section 1-35 as follows:

1-35. Uniform Nontraffic Citation and Complaint

A Mobile police officer may, in his or her sole discretion, issue a Uniform Nontraffic Citation and Complaint ("UNTCC") in lieu of a custodial arrest for certain violations and misdemeanors listed in the City of Mobile Schedule of Fines in Section 1-32 of this Chapter. The procedures for pleading guilty to nontraffic offenses charged by a UNTCC as established by Rule 20 of the Alabama Rules of Judicial Administration, and all other provisions of said Rule, as currently enacted or as hereafter amended, shall apply.

SECTION THREE: Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law:

SECTION FOUR: Severability. The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

SECTION FIVE: Conflicts. All ordinances and laws, or parts thereof, that are in conflict with the provisions of this Ordinance, are hereby repealed.

ADOPTED: 11-21-2017

Lisa C. Lambert, City Clerk